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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

13 BMW OF NORTH AMERICA, LLC, et
14 al.

15 Plaintiffs,

16 v.

17 XTREME, INC., et al.,

18 Defendants.

Case No: 5:17-cv-01335 SVW (SPx)

**PERMANENT
INJUNCTION AGAINST
DEFENDANT XTREME, INC.
D/B/A XPRITE USA AND
DISMISSAL, WITH PREJUDICE**

Hon. Stephen V. Wilson

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23 The Court, pursuant to the Stipulation for Entry of Permanent Injunction and
24 Dismissal (“Stipulation”), by and between Plaintiffs BMW of North America, LLC
25 and Bayerische Motoren Werke AG (collectively “Plaintiffs”), and Defendant
26 Xtreme, Inc. d/b/a Xprite USA (“Defendant”) filed concurrently herewith, hereby
27 ORDERS, ADJUDICATES and DECREES that a permanent injunction shall be
28 and hereby is entered against Defendant in the above-referenced matter as follows:

1 1. **PERMANENT INJUNCTION.** Defendant is hereby restrained and
2 enjoined, pursuant to 15 United States Code (“U.S.C.”) §1116(a), from engaging
3 in, directly or indirectly, or authorizing or assisting any third-party to engage in,
4 any of the following activities as related to automobile ghost shadow lights in the
5 United States and throughout the world:

6 (i) copying, manufacturing, importing, exporting, purchasing,
7 marketing, selling, offering for sale, distributing or dealing in any product or
8 service that uses, or otherwise making any use of, any of BMW’s intellectual
9 properties, including but not limited to, the **BMW®** (USPTO Reg. Nos.
10 0,611,710; 0,613,465; 1,450,212; 2,816,178; and 4,293,991) and **M®** marks
11 (USPTO Reg. Nos. 1,438,545; 3,526,899; 3,767,662; and 3,767,663) (collectively
12 “BMW’s Trademarks”), and/or any intellectual property that is confusingly or
13 substantially similar to, or that constitutes a colorable imitation of, any of BMW’s
14 Trademarks, whether such use is as, on, in or in connection with any trademark,
15 service mark, trade name, logo, design, Internet use, website, domain name,
16 metatags, advertising, promotions, solicitations, commercial exploitation,
17 television, web-based or any other program, or any product or service, or
18 otherwise;

19 (ii) using, advertising or displaying images and/or photographs of
20 non-genuine BMW automobile products with any of BMW’s Trademarks;

21 (iii) using, advertising or displaying BMW’s Trademarks, including
22 but not limited to BMW®- and/or M®-trademarks, to suggest that non-genuine
23 BMW products being advertised are manufactured, sponsored or endorsed by
24 BMW or advertising non-genuine BMW automobile parts or related products
25 using descriptions that imply the products are genuine BMW products;

26 (iv) performing or allowing others employed by or representing
27 Defendant, or under Defendant’s control, to perform any act or thing which is
28 likely to injure Plaintiffs, any of BMW’s Trademarks, including but not limited to

1 the BMW® and/or M® trademarks and/or Plaintiffs' business reputation or
2 goodwill, including making disparaging, negative, or critical comments regarding
3 Plaintiffs or their products and services;

4 (v) engaging in any acts of trademark infringement, false
5 designation of origin, dilution, unfair competition, or other act which would tend
6 damage or injure Plaintiffs; and/or

7 (vi) using any Internet domain name or website that includes any of
8 BMW's Trademarks, including but not limited to the BMW® and M® marks.

9 2. Defendant is ordered to deliver immediately for destruction all
10 counterfeit, infringing or otherwise unauthorized products, including automobile
11 ghost shadow lights and advertisements relating thereto, in Defendant's
12 possession and/or under its control embodying, comprised, utilizing and/or
13 bearing any of BMW's Trademarks.

14 3. This Permanent Injunction shall be deemed to have been served upon
15 Defendant at the time of its execution by the Court.

16 4. The Court finds there is no just reason for delay in entering this
17 Permanent Injunction against Defendant, and, pursuant to Federal Rule of Civil
18 Procedure 54(a), the Court directs immediate entry of this Permanent Injunction
19 against Defendant.

20 5. **NO APPEALS AND CONTINUING JURISDICTION.** No
21 appeals shall be taken from this Permanent Injunction, and the parties waive all
22 rights to appeal. This Court expressly retains jurisdiction over this matter to
23 enforce any violation of the terms of this Permanent Injunction by Defendant.

24 6. **NO FEES AND COSTS.** Plaintiffs and Defendant shall each bear
25 their own attorneys' fees and costs incurred in this matter.


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7. **DISMISSAL.** Upon entry of this Permanent Injunction against Defendant, the case shall be dismissed in its entirety, with prejudice.

IT IS SO ORDERED, ADJUDICATED and DECREED this 19th day of
December, 2017.


HON. STEPHEN V. WILSON

HON STEPHEN V WILSON
District Court Judge of the United States
Central District of California